

REC'D AUG 11 2014

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7

8 **BEFORE THE ARIZONA STATE BOARD OF MASSAGE THERAPY**

9 In the Matter of

10  
11 **OLIVER E. AMMERMAN, III,**

12 License No. MT-11065 as a  
13 Massage Therapist in the  
State of Arizona

**CONSENT AGREEMENT FOR  
RENEWAL OF LICENSE WITH  
CIVIL PENALTY**

14 **CONSENT AGREEMENT**

15 As Oliver E. Ammerman ("Applicant") has made application to the Arizona State  
16 Board of Massage Therapy (the "Board") for renewal of his license as a massage  
17 therapist and, consistent with the public interest, statutory requirements and the  
18 responsibilities of the Board under A.R.S. § 32-4201, *et. seq.*, the Board and Applicant  
19 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order  
20 ("Consent Agreement") for renewal of licensure.

21 **RECITALS**

22 1. Applicant has read and understands this Consent Agreement and has had  
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the  
24 opportunity to discuss this Consent Agreement with an attorney.  
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1           2.     Applicant understands that he has a right to a public administrative hearing  
2 concerning this matter, at which hearing he could present evidence and cross examine  
3 witnesses. By entering into this Consent Agreement, Applicant knowingly and  
4 voluntarily relinquishes all right to an administrative hearing, as well as all rights of  
5 rehearing, review, reconsideration, appeal, judicial review or any other administrative  
6 and/or judicial action, concerning the matters set forth herein.

7           3.     Applicant affirmatively agrees that this Consent Agreement shall be  
8 irrevocable.

9           4.     Applicant acknowledges and agrees that, upon signing this Consent  
10 Agreement and returning this document to the Board's Executive Director, he may not  
11 revoke his acceptance of the Consent Agreement or make any modifications to the  
12 document regardless of whether the Consent Agreement has been signed by the  
13 Executive Director. Any modification to this original document is ineffective and void  
14 unless mutually agreed by Applicant and the Board in writing.

15          5.     Applicant understands that the Consent Agreement shall not become  
16 effective unless and until signed by the Board's Executive Director on behalf of the  
17 Board.

18          6.     This Consent Agreement is subject to the approval of the Board and is  
19 effective only when accepted by the Board and signed by the Executive Director. In the  
20 event that the Board does not approve this Consent Agreement, it is withdrawn and shall  
21 be of no evidentiary value and shall not be relied upon nor introduced in any action by  
22 any party, except that the parties agree that should the Board reject this Consent  
23 Agreement and this case proceeds to hearing, Applicant shall assert no claim that the  
24 Board was prejudiced by its review and discussion of this document or any records  
25 relating thereto.

26

1           7.     Applicant understands that this Consent Agreement does not constitute a  
2 dismissal or resolution of any other matters currently pending before the Board, if any,  
3 and does not constitute any waiver, express or implied, of the Board's statutory authority  
4 or jurisdiction regarding any other pending or future investigation, action or proceeding.

5           8.     Applicant also understands that acceptance of this Consent Agreement does  
6 not preclude any other agency, subdivision, or officer of this State from instituting any  
7 other civil or criminal proceedings with respect to the conduct that is the subject of this  
8 Consent Agreement.

9           9.     If a court of competent jurisdiction rules that any part of this Consent  
10 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement  
11 shall remain in full force and effect.

12          10.    Applicant understands that this Consent Agreement is a public record that  
13 may be publicly disseminated as a formal action of the Board and may be reported as  
14 required by law to the National Practitioner Data Bank and the Healthcare Integrity and  
15 Protection Data Bank.

16          11.    Applicant understands that any violation of this Consent Agreement may  
17 result in disciplinary action. A.R.S. § 32-4253(A)(23).

18          12.    Applicant agrees that the Board will adopt the following Findings of Fact,  
19 Conclusions of Law and Order.

20 ACCEPTED AND AGREED BY OLIVER E. AMMERMAN, III

21  
22   
23 Oliver E. Ammerman, III

Dated: 8-5-14

24 ...

25 ...

1 **FINDINGS OF FACT**

2 1. The Board is the duly constituted authority for licensing and regulating the  
3 practice of Massage Therapy in the State of Arizona.

4 2. At its July 2014 meeting, the Board considered Applicant's application for  
5 renewal of his license as a massage therapist in the State of Arizona.

6 3. On March 10, 2014, Applicant signed the application for renewal stating  
7 that he had completed at least 24 hours of continuing education. Applicant had not  
8 completed the required number of continuing education hours as claimed in his renewal  
9 application. Applicant has now completed the required continuing education hours.

10 **CONCLUSIONS OF LAW**

11 1. The Board possesses jurisdiction over the subject matter and over Applicant  
12 pursuant to A.R.S. § 32-1901 *et seq.*

13 2. Using fraud, deceit, or misrepresentation in obtaining or attempting to  
14 obtain a license or the renewal or reinstatement of a license is grounds for disciplinary  
15 action and denial of licensure. A.R.S. §§ 32-4222(G) and -4253(A)(2).

16 3. The Board, having considered the foregoing, finds that Applicant currently  
17 meets the requirements for renewal of his massage therapy license, subject to the terms of  
18 this Consent Agreement.

19 **ORDER**

20 Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY  
21 ORDERED AS FOLLOWS:

- 22 1. Applicant's massage therapy license is hereby renewed.  
23 2. Within ninety (90) days from the effective date of this Consent Agreement,  
24 Applicant shall pay a civil penalty of \$125.  
25  
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1 3. If Applicant violates this Order in any way or fails to fulfill the  
2 requirements of this Order, the Board, after giving notice and the opportunity to be heard,  
3 may revoke, suspend or take other disciplinary actions against the license. The issue at  
4 such a hearing will be limited solely to whether this Order has been violated.

5 DATED this 11<sup>th</sup> day of August, 2014.

7 ARIZONA STATE BOARD OF MASSAGE  
8 THERAPY

9 By: Kathleen Phillips  
10 KATHLEEN PHILLIPS,  
Executive Director

11  
12 ORIGINAL OF THE FORGOING FILED  
13 this 28<sup>th</sup> day of July, 2014, with:

14 Arizona State Board of Massage Therapy  
15 1400 West Washington, Suite 300  
16 Phoenix, Arizona 85007

17 EXECUTED COPY OF THE FOREGOING MAILED  
18 this 28<sup>th</sup> day of July, 2014, to:

19 Oliver E. Ammerman, III  
20 17462 W. Barff Lane  
21 Surprise, AZ 85388  
22 Applicant

23 Elizabeth A. Campbell  
24 Assistant Attorney General  
25 1275 W. Washington Street, CIV/LES  
26 Phoenix, Arizona 85007  
Attorney for the Board

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